

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the foregoing amendments and the following remarks.

Currently, claims 130-142 are pending in the present application, including independent claim 130. Independent claim 130, for instance, is directed to a diagnostic device having a housing that defines i) an opening for receiving a sample, ii) a first chamber into which the sample may be directed, iii) a first channel positioned to provide unreacted sample from the opening to the first chamber, and iv) a second channel positioned to remove unreacted sample from the first chamber. A test strip is removably attached to the housing that defines a test surface in fluid communication with the first chamber so that the sample may be reacted. A second chamber is positioned for receipt of unreacted sample from the first chamber. The second chamber is in fluid communication with the second channel. The device further includes means for inducing a negative pressure differential on the sample to direct the sample through the first channel, into the chamber, to the test surface, and to thereafter remove an unreacted portion of the sample from the test surface, through the second channel, and into the second chamber. The device also includes a first and second indicator corresponding to a first and second piston position that indicates the sample has reached the first and second chamber respectively.

For instance, Figs. 6-7 are illustrative of one embodiment that independent claim 130 encompasses.

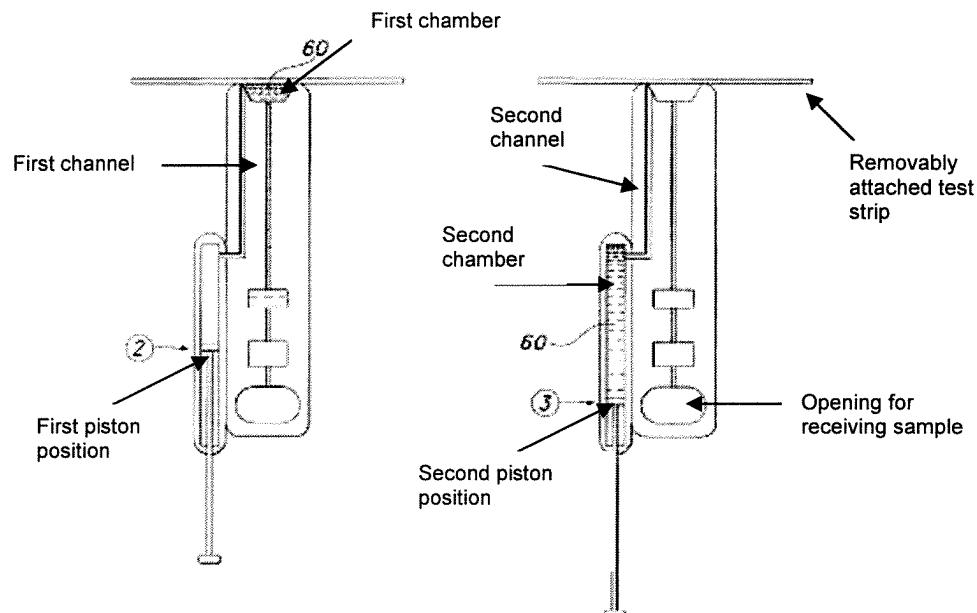


FIG 6

FIG 7

As illustrated, as the piston of the syringe engages, negative pressure is exerted on the sample directing the sample through the first channel, into the first chamber, and thereafter removing unreacted sample from the first channel through the second channel and into the second chamber.

In the Office Action, previous independent claim 113 was rejected under 35 U.S.C. § 102(b) (or in the alternative under 35 U.S.C 103(a)) as being anticipated by U.S. Patent No. 5,677,133 to Oberhardt. In addition to Applicants' arguments expressed in the Response dated October 31, 2007 and the telephone interview conducted on November 27, 2007, Applicants assert that Oberhardt additionally fails to disclose at least "a first indicator corresponding to a first piston position that indicates the sample has reached the first chamber and a second indicator, the second indicator corresponding to a second piston position that indicates the sample has reached the second chamber" as required by independent claim 130.

Thus, for at least the reasons set forth above, Applicants respectfully submit that the present claims are not anticipated by Oberhardt. Furthermore, Applicant respectfully submits that some or all of the dependent claims also contain additional limitations not indicated by Oberhardt. By way of example only, claim 135 requires “a third chamber positioned for receipt of unreacted sample from the opening, the third chamber located upstream of the first chamber, the third chamber in fluid communication with the first channel; and a third channel, the third channel positioned to provide unreacted sample from the opening to the third chamber.” Furthermore, claim 139 depends on claim 135 and additionally requires that the device “comprises a third indicator corresponding to a third piston position that indicates the sample has reached the third chamber means for inducing a negative pressure is a syringe.” For instance, Fig. 5 is illustrative of one embodiment that dependent claims 135 and 139 encompass:

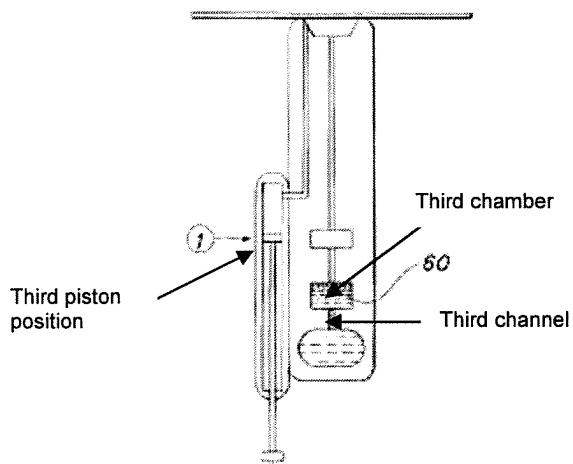


FIG 5

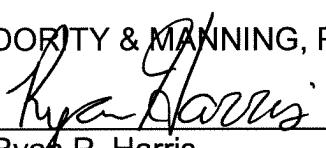
Appl. No. 10/026,610
Supplemental Amendment dated Oct. 31, 2007
Reply to Office Action of July 6, 2007

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Ramillano is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Supplemental.

Please charge any additional fees required by this Supplemental Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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Date: 11/29/07